

Page 1

1           UNITED STATES DISTRICT COURT  
2           SOUTHERN DISTRICT OF NEW YORK

3           -----x

4           JANELL WINFIELD, TRACEY STEWART  
5           and SHAUNA NOEL,

6                 Plaintiffs,

7                 -against-                           Civil Action No.:  
8   15-CV-5236 (LTS) (KHP)

9           CITY OF NEW YORK,

10              Defendant.

11           -----x

12

13

14           VIDEOTAPED DEPOSITION of VICKI BEEN, held  
15           at the law offices of the Anti-Discrimination  
16           Center, located at 1745 Broadway, New York, New  
17           York 10019, before Anthony Giarro, a Registered  
18           Professional Reporter and a Notary Public of the  
19           State of New York.

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1 VICKI BEEN  
2 at you and say, Well, what do you mean by  
3 that?

4                   But if you ask people, would  
5        you like a more economically, racially  
6        ethnically diverse community? Then I  
7        think there is support for that. I think  
8        there is a lot of support for that.

9 Q So getting community support  
10 for that is not difficult?

11                   A                  No. I don't think it's -- I  
12 mean, does everybody support it? No.  
13 But is it difficult? No. I don't think  
14 so.

15 Q Did you come to understand  
16 during your tenure as HPD commissioner  
17 that there are parts of the city where  
18 opposition to racial or ethnic  
19 integration is particularly high?

20 MS. SADOK: Objection.

21           A           I think that opposition to  
22         racial, ethnic, religious integration in  
23         some parts of Brooklyn that are heavily  
24         occupied by the Jewish community is  
25         sometimes difficult.

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1 VICKI BEEN  
2 would have similar demographics is what  
3 you're saying?

4 MS. SADOK: Objection.

A No. The radius idea was rejected primarily because it's a nightmare to administer. People don't understand it, people can't rely on it, you know, et cetera. So it doesn't help with the fear of displacement. If you can't figure out, are you going to be in the circle or not; right? So that was rejected for those reasons.

14 I don't recall the  
15 specifics. But I think that when we  
16 combined different community districts,  
17 we did not find that you were seen much  
18 racial -- that you were seeing sufficient  
19 racial difference to make it worth the  
20 effort.

21 Q Did you explore the  
22 alternative of selecting a district or  
23 districts in addition to the district in  
24 which the housing was located, such that  
25 there would be a significant change in

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1 VICKI BEEN  
2 the overall racial balance, even if that  
3 meant going to noncontiguous community  
4 districts?

MS. SADOK: Objection.

6                   A               Yes. We did consider  
7                   noncontiguous community districts. I  
8                   don't recall the details. But I do  
9                   recall we considered noncontiguous.

10 Q Just in the way New York is  
11 organized, surely sometimes you can come  
12 up with a community district  
13 compensation -- you can come up with a  
14 set of community districts where the  
15 combined demographics are very different  
16 from the demographics of the community  
17 district in which the project is located;  
18 isn't that right?

19 MS. SADOK: Objection.

20 A Yes.

21 Q So why was that approach  
22 rejected?

MS. SADOK: Objection. I  
don't know that it's on the record of  
whether or not that was considered or

1 | VICKI BEEN

2 rejected.

A It was considered, it was  
4 rejected. To the best of my  
5 recollection, it was rejected primarily  
6 because in order to reduce the political  
7 salience of displacement, try to assuage  
8 people's concerns about displacement,  
9 they need to be able to see what the  
10 preference is going to be. So if we were  
11 constructing it for each project, that  
12 wouldn't satisfy those objectives.

13 Q I want to ask you something  
14 about that. But first, I want to find  
15 out because you said primarily.

18           A           I don't recall all the  
19         different reasons. I recall the main  
20         reason. We had many discussions about  
21         many different options. And I don't  
22         recall every single reason.

23 Q I'm going to ask you about  
24 this particular option. And if the  
25 answer is different for the different

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1                   VICKI BEEN

2                   Q         Why wouldn't it be possible  
3                   since projects are announced on a  
4                   case-by-case basis to make a decision,  
5                   okay, this development is going to be in  
6                   a highly African American but much less  
7                   Latino and white community district to  
8                   find those demographically compensatory  
9                   districts; you with me so far?

10                  A         I think so.

11                  Q         And then be able to present  
12                  it to the public in the very same way  
13                  that you do now. There's going to be --  
14                  you can feel better about displacement,  
15                  this project is going to help people in  
16                  these three community districts who may  
17                  feel at risk of displacement.

18                  MS. SADOK: Objection.

19                  A         I mean, one of the criteria  
20                  that we use that I think is critically  
21                  important is that any system be both  
22                  objective and predictable and perceived  
23                  as objective and predictable. And  
24                  anytime we start --

25                  Q         Tinkering?

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VICKI BEEN

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A -- jerryandering or  
tinkering or that kind of thing, people  
think that's just a political decision,  
they're protecting this person, they're  
protecting -- you know, they're  
jerryandering; right? And that  
concerned us.

9

Q But isn't a principal basis  
of the policy a political judgment as to  
how to get support? Doesn't that leave  
hundreds of thousands of people who  
applied out of community district with  
the impression they're being left behind  
because the politics of New York City  
demand that they be left behind?

17

MS. SADOK: Objection.

18

A I don't know what's in the  
minds of other people. I have not heard  
that expressed.

21

Q We had this discussion last  
time. You were just a moment ago when  
you were justifying the rejection of an  
alternative relying on what you believed  
people would perceive.

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**VICKI BEEN**

2 So clearly, you may not know  
3 what's in the mind of others, but you try  
4 to figure out what the perception of  
5 others is, don't you?

**A** Mm - h m m .

7 Q So what about the perception  
8 of New Yorkers -- whether or not it's  
9 been expressed to you or not -- that  
10 people are being disadvantaged by a  
11 political judgment of who gets  
12 preference?

13 MS. SADOK: Objection.

14                   A               I don't think that that's  
15                   the way people think about the Community  
16                   Preference.

17 MS. SADOK: Can we take a  
18 quick one last break? I know we're  
19 getting close to the end.

20 MR. GURIAN: Okay.

21 THE VIDEOGRAPHER: The time  
22 is 1653. We are off the record.

23 (A short recess was taken.)  
24 THE VIDEOGRAPHER: The time  
25 is 1652. We are on the record.

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2 STATE OF NEW YORK )  
3 ) :ss  
4 COUNTY OF NEW YORK )  
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7 I, VICKI BEEN, the witness  
8 herein, having read the foregoing  
9 testimony of the pages of this deposition,  
10 do hereby certify it to be a true and  
11 correct transcript, subject to the  
12 corrections, if any, shown on the attached  
13 page.

*Vicki Been*

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15  
16 VICKI BEEN  
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20 Sworn and subscribed to before me,  
21 this 25<sup>th</sup> day of May, 2018.

22  
23 Kristin E Silberman  
24 Notary Public  
25

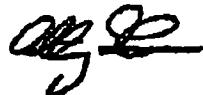
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NEW YORK COUNTY  
LIC. #01S16137116  
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2                   C E R T I F I C A T I O N  
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5                   I, ANTHONY GIARRO, a Shorthand Reporter  
6                   and a Notary Public, do hereby certify that the  
7                   foregoing witness, VICKI BEEN, was duly sworn on  
8                   the date indicated, and that the foregoing, to  
9                   the best of my ability, is a true and accurate  
10                  transcription of my stenographic notes.

11                  I further certify that I am not employed  
12                  by nor related to any party to this action.

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15

16                  ANTHONY GIARRO  
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